

Daniel A. DeLiberty, Esq.
The DeLiberty Law Firm, P.C.
2809 West Chester Pike, Ste. 100
Broomall, PA 19008
610-353-0322
dan@delibertylaw.com
Attorney for Plaintiff

RECEIVED PROTHONOTARY
FRANKLIN COUNTY PA
OCT 14 2015 2015 OCT 13 PM 1:41

FRANKLIN COUNTY SHERIFF'S OFFICE

LINDA L. BEARD
PROTHONOTARY

DEPUTY TK

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, PENNSYLVANIA
CIVIL DIVISION

ESTATE OF DOUGLAS K. CONNER,

Plaintiff,

v.

NATIONAL RECOVERY AGENCY

Defendant

}
}
}
}
}
}
}
}
}

No.: 2015-3409

PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

Kindly reinstate the complaint in the above captioned action.

Respectfully Submitted:

Date:

10/8/15

By:

Daniel A. DeLiberty

Daniel A. DeLiberty

Attorney for Plaintiff

ATTEST A TRUE COPY

Theresa Kissing
LINDA L. BEARD PROTHONOTARY

Supreme Court of Pennsylvania

Court of Common Pleas

Franklin County

Franklin County

County

| | |
|----------------------------|-------------|
| For Prothonotary Use Only: | |
| Docket No. | FILED |
| 8015-3409 | 17 PM 12:52 |

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons
☐ Transfer from Another Jurisdiction

- ☐ Petition
☐ Declaration of Taking

DEPUTY uh

Lead Plaintiff's Name:
 ESTATE OF DOUGLAS K. CONNER

Lead Defendant's Name:
 NATIONAL RECOVERY AGENCY

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☒ within arbitration limits
☐ outside arbitration limits
 (check one)

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: DANIEL A. DELIBERTY

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☒ Debt Collection: Other
 Violation of Fair Debt
 Collections Practices Act
☐ Employment Dispute:
 Discrimination
☐ Employment Dispute: Other
☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

- ☐ Zoning Board
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
☐ Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, PENNSYLVANIA
CIVIL DIVISION

2015 SEP 17 PM 12:52

L.S. / L.P. 20
PROTHONOTARY

ESTATE OF DOUGLAS K. CONNER,

Plaintiff,

v.

NATIONAL RECOVERY AGENCY

Defendant

No.: 2015-3409

Judge: Shawn D. Meyers

DEPUTY wh

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take prompt action within twenty (20) days after this **COMPLAINT** and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the defendant. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Legal Services Inc.,
Franklin Farm Lane,
Chambersburg, PA 17201
717-264-5354

Le han demandado a usted en la corte. Si desea defenderse contra las quejas present-day, es absolutamente necesario que usted responda dentru de 20 dias despues de ser servido con esta demanda y aviso. Para defendese es necesario que usted, o su abogado, register con la corte en forma esctira, el punto de vista de usted y cualquier objeccion contra la quejas en esta demanda.

Recuerde: Si usted no responde a esta demanda, se puedo proseguir con el proceso sin su participacion. Entonces, la corte purde, sin notificarlo decidir favor del demandante y requerira que usted cumpla contodas las provisiones de esta demanda. Por razon de esa decision, es possible que usted pueda perder dinero, propiedad o otros derrechos importantes.

LLEVE ESTA DEMANDA A UN ABOGADO IMMEDIATAMENTE. SI NO CONOCE A UN ABOGADO LLAME AL.

Legal Services Inc., ATTEST A TRUE COPY
Franklin Farm Lane,
Chambersburg, PA 17201 Linda L. Beard
717-264-5354 LINDA L. BEARD, PROTHONOTARY

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, PENNSYLVANIA
CIVIL DIVISION**

ESTATE OF DOUGLAS K. CONNER,

Plaintiff,

v.

NATIONAL RECOVERY AGENCY

Defendant

}
}
}
}
}
}
}
}
}

No.:

COMPLAINT

Plaintiff Estate of Douglas K. Conner brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), against Defendant National Recovery Agency ("NRA").

INTRODUCTION

1. Defendant is subject to strict liability for sending Douglas Conner ("Conner" herein) a collection letter that exposed Conner's personal identifying information visibly through the window on the envelope placed in the mail.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 15 U.S.C. § 1692k(d).
3. Venue and personal jurisdiction in this county are proper under Pa.R.C.P. 2179(a)(2) and (a)(3) because Defendant's collection communications and practices impacted Plaintiff within this county and Defendant transacts business within this county.

PARTIES

4. Plaintiff is Estate of Douglas K. Conner. Douglas Conner is deceased, but was a citizen of Franklin County, Pennsylvania, from whom Defendant attempted to collect a consumer debt allegedly owed to Orthopaedic Associates of Chambersburg, in the amount of \$126.86, with a PIN number ending in 1258, and with an NRA ID number ending in 732 (the "alleged debt").

5. Defendant National Recovery Agency (herein "NRA" or "Defendant"), is a company with a principal place of business located at 2491 Paxton St., Harrisburg, PA 17111, which acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mail and/or the telephone to collect, or attempt to collect, delinquent consumer debts in Pennsylvania and in Franklin County, directly or indirectly.

6. Debt collectors employing attorneys or other agents to carry out debt collection practices that violate the FDCPA are vicariously liable for their agent's conduct.

FACTUAL ALLEGATIONS

7. Plaintiff is a "consumer" within the meaning of the FDCPA, as defined by 15 U.S.C. § 1692a(3). For purposes of the Act, Plaintiff must be presumed to be a "least sophisticated consumer."

8. Defendant is in the business of attempting to collect consumer debts from consumers, and as such, Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6) of the FDCPA.

9. On or about September 22, 2014, Defendant caused to be mailed to Conner a collection letter seeking to collect the alleged debt ("Letter"). Attached hereto as Exhibit "A" is a copy of the Letter.

10. The Letter is a communication in connection with debt collection as that term is used in the FDCPA.

11. Visible through the window of the envelope of the Letter, above Conner's name and address, was a barcode which, when scanned, results in the display of a number ending in 732. See Exhibit A.

12. This type of barcode can be read and displayed by most smart phones.

13. The Letter identified the number ending in 732 as being Conner's NRA ID number. See Exhibit A.

14. On at least one occasion, and possibly more, Defendant thereby exposed Plaintiff's NRA ID number on the Letter they sent through the mail.

15. Defendant, in violation of the FDCPA, has revealed Plaintiff's NR ID number on the outside of the envelope in a barcode.

16. Plaintiff's NRA ID number is a piece of information capable of identifying Plaintiff as a debtor, and its disclosure has the potential to cause the type of harm to a consumer which the FDCPA seeks to address.

17. The disclosure of personal identifying information such as this infringes upon the consumer's privacy interests protected by the FDCPA, 15 U.S.C. § 1692(a).

COUNT I – VIOLATION OF FAIR DEBT COLLECTIONS PRACTICES ACT

18. The preceding paragraphs are incorporated by reference herein.

19. The conduct of Defendant, its agents, servants, and/or employees, as described above, violates the FDCPA, 15 U.S.C. § 1692f(8) which provides:

It is a violation for a debt collector to use any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt

collector may use his business name if such name does not indicate that he is in the debt collection business.

20. The Third Circuit Court of Appeals in the case of *Courtney Douglass v Convergent Outsourcing, f/k/a ER Solutions, Inc.*, Case No 13-3588 (3rd. Cir. Aug. 28, 2014) held that such a disclosure is a violation of 1692f(8).
21. The U.S. District Court for the Middle District of Pennsylvania has held that such disclosures through Quick Response codes and barcodes are also a violation of 15 U.S.C. § 1692f(8). See *Styer v. Professional Medical Management*, Case No. 3:14-cv-2304 (WJN), M.D. PA, July 15, 2015 and *Kostik v. ARS National Services*, Case No. 3:14-cv-2466 (WJN), M.D. PA, July 22, 2015.
22. Defendant violated 15 U.S.C. § 1692f(8) by using language or a symbol on any envelope when communicating with a consumer by mail as described above.
23. Defendant violated 15 U.S.C. § 1692f by using unfair and unconscionable means to collect or attempt to collect a debt as described above.
24. As a result of Defendant's violations of the FDCPA as set forth herein, Defendant is liable to Plaintiff pursuant to 15 U.S.C. § 1692k (a)(2)(B) as follows: (i) the amount of actual damages sustained, plus \$1,000 per violation; (ii) costs of bringing this action, plus reasonable attorneys' fees; and (iii) such other and further relief as the Court deems appropriate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment within the arbitration limits of this Court, against Defendant for:

- a. Actual and statutory damages;
- b. Attorneys' fees and costs; and
- c. Such other and further relief as the Court shall deem just and proper.

JURY DEMAND

Plaintiff demands trial by jury as to all issues so triable, upon removal or appeal.

ARBITRATION LIMITS

This matter is filed within this court's arbitration limits.

Date:

9/16/15

Respectfully Submitted:

By:

/sgt

Daniel A. DeLiberty, Esq.
The DeLiberty Law Firm, P.C.
2809 West Chester Pike, Ste. 100
Broomall, PA 19008
610-353-0322
dan@delibertylaw.com

Attorney for Plaintiff

VERIFICATION

I, Daniel A. DeLiberty, attorney for Plaintiff herein, hereby depose and say, subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.

Date:

9/16/15

Daniel A. DeLiberty /sst
Daniel A. DeLiberty, Esq.

EXHIBIT A

NATIONAL RECOVERY AGENCY

2491 Paxton Street, Harrisburg PA 17111
Toll Free: (800) 360-4319

Douglas K Conner
1063 Anthony Hwy
Chambersburg, PA 17202-8438

PIN #: 1258
NRA ID: 7321
TOTAL DUE: \$126.86

Dear Douglas K Conner,

Your account has been forwarded to this office for collections.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Below is a listing of accounts included in the total amount due listed above:

| ORIGINAL CREDITOR | ACCOUNT # | DATE | AMOUNT | INTEREST | COSTS | AMT OWE |
|--------------------------------|-----------|----------|--------|----------|-------|---------|
| ORTHOPAEDIC ASSOCS OF CHAMBERS | | 02/25/14 | 126.86 | .00 | .00 | 126.86 |

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Unless you dispute this debt, your payment should be made directly to this office. Please choose one of the following methods of payment. Please note that a service charge of twenty dollars will be added to all checks returned to us by your bank as permitted by law.

NOTICE: SEE REVERSE SIDE FOR IMPORTANT NOTICES AND CONSUMER RIGHTS

PAYMENT OPTIONS

Telephone Hours:

Monday - Thursday 8:00 A.M. to 8:30 P.M.
Friday 8:00 A.M. to 5:00 P.M.
Saturday 8:00 A.M. to 12:30 P.M.
Eastern Standard Time
(800) 360-4319

Send Mail To:

NATIONAL RECOVERY AGENCY
PO BOX 67015
HARRISBURG, PA 17106-7015

Via Internet:

Pay online by credit card
or check at
www.nationalrecovery.com

Calls to or from NATIONAL RECOVERY AGENCY may be recorded or monitored.

To ensure proper credit to your account please detach bottom portion and return it with payment in the enclosed envelope.

PO Box 67015
Harrisburg, PA 17106-7015

Toll Free: (800) 360-4319
Statement Date: September 22, 2014

018 201165632815 2579/00012900008

Douglas K Conner
1063 Anthony Hwy
Chambersburg, PA 17202-8438

IF PAYING BY CREDIT CARD, FILL OUT BELOW.

| | | |
|--|-------------------|-------------------------------------|
| <input checked="" type="checkbox"/> VISA | | <input type="checkbox"/> MasterCard |
| CARD NUMBER | SECURITY CODE | |
| SIGNATURE | EXP. DATE | |
| TOTAL DUE \$126.86 | \$ PAYMENT AMOUNT | NRA ID # 61732P |
| For Online Payments visit www.nationalrecovery.com | | |

MAKE PAYMENT AND REMIT TO:

NATIONAL RECOVERY AGENCY
PO Box 67015
Harrisburg, PA 17106-7015

Self-Addressed stamped envelope is required for return receipts.